

Senate Study Bill 1176 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act creating the compassionate use of medical cannabis
2 preparations Act, reclassifying marijuana, including
3 tetrahydrocannabinols, from a schedule I controlled
4 substance to a schedule II controlled substance, providing
5 for civil and criminal penalties and fees, and including
6 effective date provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.204, subsection 4, paragraphs m and
2 u, Code 2017, are amended by striking the paragraphs.

3 Sec. 2. Section 124.204, subsection 7, Code 2017, is amended
4 by striking the subsection.

5 Sec. 3. Section 124.206, subsection 7, Code 2017, is amended
6 to read as follows:

7 7. *Hallucinogenic substances.* Unless specifically excepted
8 or unless listed in another schedule, any material, compound,
9 mixture, or preparation which contains any quantity of the
10 following substances, or, for purposes of paragraphs "a" and
11 "b", which contains any of its salts, isomers, or salts of
12 isomers whenever the existence of such salts, isomers, or salts
13 of isomers is possible within the specific chemical designation
14 (for purposes of this paragraph only, the term "isomer"
15 includes the optical, positional, and geometric isomers):

16 a. ~~Marijuana when used for medicinal purposes pursuant to~~
17 ~~rules of the board.~~

18 b. Tetrahydrocannabinols, meaning tetrahydrocannabinols
19 naturally contained in a plant of the genus cannabis (cannabis
20 plant) as well as synthetic equivalents of the substances
21 contained in the cannabis plant, or in the resinous extractives
22 of such plant, and synthetic substances, derivatives, and their
23 isomers with similar chemical structure and pharmacological
24 activity to those substances contained in the plant, such as
25 the following:

26 (1) 1 cis or trans tetrahydrocannabinol, and their optical
27 isomers.

28 (2) 6 cis or trans tetrahydrocannabinol, and their optical
29 isomers.

30 (3) 3,4 cis or trans tetrahydrocannabinol, and their
31 optical isomers. (Since nomenclature of these substances
32 is not internationally standardized, compounds of these
33 structures, regardless of numerical designation of atomic
34 positions covered.)

35 ~~b.~~ c. Nabilone [another name for nabilone: (+-) -

1 trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-
2 hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one].

3 Sec. 4. Section 124.401, subsection 5, unnumbered paragraph
4 3, Code 2017, is amended to read as follows:

5 A person may knowingly or intentionally recommend, possess,
6 use, dispense, deliver, transport, or administer ~~cannabidiol~~
7 medical cannabis if the recommendation, possession, use,
8 dispensing, delivery, transporting, or administering is in
9 accordance with the provisions of [chapter 124D 124E](#). For
10 purposes of this paragraph, ~~"cannabidiol"~~ means "medical
11 cannabis" and "medical cannabis preparation" mean the same as
12 defined in [section 124D.2 124E.2](#).

13 Sec. 5. NEW SECTION. 124E.1 Short title.

14 This chapter shall be known and may be cited as the
15 *"Compassionate Use of Medical Cannabis Preparations Act"*.

16 Sec. 6. NEW SECTION. 124E.2 Definitions.

17 As used in this chapter:

18 1. *"Debilitating medical condition"* means any of the
19 following:

20 a. Cancer.

21 b. Multiple sclerosis.

22 c. Epilepsy or seizure disorders.

23 d. AIDS or HIV as defined in section 141A.1.

24 e. Glaucoma.

25 f. Hepatitis C.

26 g. Crohn's disease or ulcerative colitis.

27 h. Amyotrophic lateral sclerosis.

28 i. Ehlers-danlos syndrome.

29 j. Post-traumatic stress disorder.

30 k. Tourette's syndrome.

31 l. Any terminal illness.

32 m. Intractable pain.

33 n. Any other chronic or debilitating disease or medical
34 condition or its medical treatment approved by the department
35 pursuant to rule.

1 2. "*Department*" means the department of public health.

2 3. "*Enclosed, locked facility*" means a closet, room,
3 greenhouse, or other enclosed area equipped with locks or other
4 security devices that permit access only by a cardholder.

5 4. "*Health care practitioner*" means an individual licensed
6 under chapter 148 to practice medicine and surgery or
7 osteopathic medicine and surgery or an individual licensed to
8 prescribe medicine in any other state who provides specialty
9 care for an Iowa resident for one or more of the debilitating
10 medical conditions provided in this chapter.

11 5. "*Intractable pain*" means a pain in which the cause of the
12 pain cannot be removed or otherwise treated with the consent
13 of the patient and which, in the generally accepted course of
14 medical practice, no relief or cure of the cause of the pain
15 is possible, or none has been found after reasonable efforts.
16 Reasonable efforts for relieving or curing the cause of the
17 pain may be determined on the basis of but are not limited to
18 any of the following:

19 a. When treating a nonterminally ill patient for intractable
20 pain, evaluation by the attending physician and one or more
21 physicians specializing in pain medicine or the treatment of
22 the area, system, or organ of the body perceived as the source
23 of the pain.

24 b. When treating a terminally ill patient, evaluation by
25 the attending physician who does so in accordance with the
26 level of care, skill, and treatment that would be recognized
27 by a reasonably prudent physician under similar conditions and
28 circumstances.

29 6. "*Medical cannabis*" means any species of the genus
30 cannabis plant, or any mixture or preparation of them,
31 including whole plant extracts and resins grown only by a
32 medical cannabis preparation manufacturer licensed under this
33 chapter.

34 7. "*Medical cannabis preparation*" means any of the
35 following:

1 a. Cannabis flowers, leaves, or other plant material
2 that includes cannabidiol and is no more than ten percent
3 tetrahydrocannabinol by weight and dispensed by a medical
4 cannabis preparation dispensary licensed under this chapter.

5 b. An extract, mixture, or preparation of cannabis that
6 includes cannabidiol and contains no more than ten percent
7 tetrahydrocannabinol by weight and dispensed by a medical
8 cannabis preparation dispensary licensed under this chapter.

9 8. *"Medical cannabis preparation dispensary"* means an entity
10 licensed under section 124E.8 that acquires a medical cannabis
11 preparation from a medical cannabis preparation manufacturer
12 in this state for the purpose of dispensing a medical cannabis
13 preparation in this state pursuant to this chapter.

14 9. *"Medical cannabis preparation manufacturer"* means an
15 entity licensed under section 124E.6 to manufacture, possess,
16 cultivate, transport, or supply medical cannabis and a medical
17 cannabis preparation pursuant to the provisions of this
18 chapter.

19 10. *"Primary caregiver"* means a person, at least eighteen
20 years of age, who has been designated by a patient's health
21 care practitioner or a person having custody of a patient,
22 as a necessary caretaker taking responsibility for managing
23 the well-being of the patient with respect to the use of a
24 medical cannabis preparation pursuant to the provisions of this
25 chapter.

26 11. *"Written certification"* means a document signed by a
27 health care practitioner, with whom the patient has established
28 a patient-provider relationship, which states that the patient
29 has a debilitating medical condition and identifies that
30 condition and provides any other relevant information.

31 Sec. 7. NEW SECTION. **124E.3 Health care practitioner**
32 **certification — duties.**

33 1. Prior to a patient's submission of an application for
34 a medical cannabis preparation registration card pursuant to
35 section 124E.4, a health care practitioner shall do all of the

1 following:

2 *a.* Determine, in the health care practitioner's medical
3 judgment, whether the patient whom the health care practitioner
4 has examined and treated suffers from a debilitating medical
5 condition that qualifies for the use of a medical cannabis
6 preparation under this chapter, and if so determined, provide
7 the patient with a written certification of that diagnosis.

8 *b.* Provide explanatory information as provided by the
9 department to the patient about the therapeutic use of a
10 medical cannabis preparation.

11 *c.* Determine, on an annual basis, if the patient continues
12 to suffer from a debilitating medical condition and, if so,
13 issue the patient a new certification of that diagnosis.

14 *d.* Otherwise comply with all requirements established by the
15 department pursuant to rule.

16 2. A health care practitioner may provide, but has no duty
17 to provide, a written certification pursuant to this section.

18 Sec. 8. NEW SECTION. **124E.4 Medical cannabis preparation**
19 **registration card.**

20 1. *Issuance to patient.* The department may approve the
21 issuance of a medical cannabis preparation registration card by
22 the department of transportation to a patient who:

23 *a.* Is at least eighteen years of age.

24 *b.* Is a permanent resident of this state.

25 *c.* Submits a written certification to the department signed
26 by the patient's health care practitioner that the patient is
27 suffering from a debilitating medical condition.

28 *d.* Submits an application to the department, on a form
29 created by the department, in consultation with the department
30 of transportation, that contains all of the following:

31 (1) The patient's full name, Iowa residence address, date
32 of birth, and telephone number.

33 (2) A copy of the patient's valid photograph
34 identification.

35 (3) Full name, address, and telephone number of the

1 patient's health care practitioner.

2 (4) Full name, residence address, date of birth, and
3 telephone number of each primary caregiver of the patient, if
4 any.

5 (5) Any other information required by rule.

6 e. Submits a medical cannabis preparation registration card
7 fee of one hundred dollars to the department. If the patient
8 attests to receiving social security disability benefits,
9 supplemental security insurance payments, or being enrolled in
10 the medical assistance program, the fee shall be twenty-five
11 dollars.

12 2. *Patient card contents.* A medical cannabis preparation
13 registration card issued to a patient by the department of
14 transportation pursuant to subsection 1 shall contain, at a
15 minimum, all of the following:

16 a. The patient's full name, Iowa residence address, and date
17 of birth.

18 b. The patient's photograph.

19 c. The date of issuance and expiration of the registration
20 card.

21 d. Any other information required by rule.

22 3. *Issuance to primary caregiver.* For a patient in a
23 primary caregiver's care, the department may approve the
24 issuance of a medical cannabis preparation registration card by
25 the department of transportation to the primary caregiver who:

26 a. Is at least eighteen years of age.

27 b. Submits a written certification to the department signed
28 by the patient's health care practitioner that the patient in
29 the primary caregiver's care is suffering from a debilitating
30 medical condition.

31 c. Submits an application to the department, on a form
32 created by the department, in consultation with the department
33 of transportation, that contains all of the following:

34 (1) The primary caregiver's full name, residence address,
35 date of birth, and telephone number.

1 (2) The patient's full name.

2 (3) A copy of the primary caregiver's valid photograph
3 identification.

4 (4) Full name, address, and telephone number of the
5 patient's health care practitioner.

6 (5) Any other information required by rule.

7 *d.* Submits a medical cannabis preparation registration card
8 fee of twenty-five dollars to the department.

9 4. *Primary caregiver card contents.* A medical cannabis
10 preparation registration card issued by the department of
11 transportation to a primary caregiver pursuant to subsection 3
12 shall contain, at a minimum, all of the following:

13 *a.* The primary caregiver's full name, residence address, and
14 date of birth.

15 *b.* The primary caregiver's photograph.

16 *c.* The date of issuance and expiration of the registration
17 card.

18 *d.* The registration card number of each patient in the
19 primary caregiver's care. If the patient in the primary
20 caregiver's care is under the age of eighteen, the full name of
21 the patient's parent or legal guardian.

22 *e.* Any other information required by rule.

23 5. *Expiration date of card.* A medical cannabis preparation
24 registration card issued pursuant to this section shall expire
25 one year after the date of issuance and may be renewed.

26 6. *Card issuance — department of transportation.* The
27 department may enter into a chapter 28E agreement with the
28 department of transportation to facilitate the issuance of
29 medical cannabis preparation registration cards pursuant to
30 subsections 1 and 3.

31 Sec. 9. NEW SECTION. 124E.5 Medical advisory board —
32 duties.

33 1. No later than August 15, 2017, the director of public
34 health shall establish a medical advisory board consisting of
35 nine practitioners representing the fields of neurology, pain

1 management, gastroenterology, oncology, psychiatry, pediatrics,
2 infectious disease, family medicine, and pharmacy, and three
3 patients or primary caregivers with valid medical cannabis
4 preparation registration cards. The practitioners shall be
5 nationally board-certified in their area of specialty and
6 knowledgeable about the use of medical cannabis preparations.

7 2. A quorum of the advisory board shall consist of seven
8 members.

9 3. The duties of the advisory board shall include but not be
10 limited to the following:

11 a. Reviewing and recommending to the department for
12 approval additional chronic or debilitating diseases or
13 medical conditions or their treatments as debilitating medical
14 conditions that qualify for the use of a medical cannabis
15 preparation under this chapter.

16 b. Accepting and reviewing petitions to add chronic or
17 debilitating diseases or medical conditions or their medical
18 treatments to the list of debilitating medical conditions that
19 qualify for the use of a medical cannabis preparation under
20 this chapter.

21 c. Advising the department regarding the location and number
22 of medical cannabis preparation dispensaries throughout the
23 state, the form and quantity of allowable medical cannabis
24 preparations to be dispensed to a patient or primary caregiver,
25 and the general oversight of medical cannabis preparation
26 manufacturers and medical cannabis preparation dispensaries in
27 this state.

28 d. Convening at least twice per year to conduct public
29 hearings and to review and recommend for approval petitions,
30 which shall be maintained as confidential personal health
31 information, to add chronic or debilitating diseases or
32 medical conditions or their medical treatments to the list of
33 debilitating medical conditions that qualify for the use of a
34 medical cannabis preparation under this chapter.

35 Sec. 10. NEW SECTION. 124E.6 Medical cannabis preparation

1 **manufacturer licensure.**

2 1. *a.* The department shall license up to four medical
3 cannabis preparation manufacturers to manufacture medical
4 cannabis preparations within this state consistent with the
5 provisions of this chapter by December 1, 2017. The department
6 shall license new medical cannabis preparation manufacturers
7 or relicense the existing medical cannabis preparation
8 manufacturers by December 1 of each year.

9 *b.* Information submitted during the application process
10 shall be confidential until the medical cannabis preparation
11 manufacturer is licensed by the department unless otherwise
12 protected from disclosure under state or federal law.

13 2. As a condition for licensure, a medical cannabis
14 preparation manufacturer must agree to begin supplying
15 medical cannabis preparations to medical cannabis preparation
16 dispensaries in this state by July 1, 2018.

17 3. The department shall consider the following factors in
18 determining whether to license a medical cannabis preparation
19 manufacturer:

20 *a.* The technical expertise of the medical cannabis
21 preparation manufacturer regarding medical cannabis and medical
22 cannabis preparations.

23 *b.* The qualifications of the medical cannabis preparation
24 manufacturer's employees.

25 *c.* The long-term financial stability of the medical cannabis
26 preparation manufacturer.

27 *d.* The ability to provide appropriate security measures on
28 the premises of the medical cannabis preparation manufacturer.

29 *e.* Whether the medical cannabis preparation manufacturer
30 has demonstrated an ability to meet certain medical cannabis
31 and medical cannabis preparation production needs for
32 medical use regarding the range of recommended dosages for
33 each debilitating medical condition, the range of chemical
34 compositions of any plant of the genus cannabis that will
35 likely be medically beneficial for each of the debilitating

1 medical conditions, and the form of the medical cannabis
2 preparation in the manner determined by the department pursuant
3 to rule.

4 *f.* The medical cannabis preparation manufacturer's
5 projection of and ongoing assessment of fees on patients with
6 debilitating medical conditions.

7 4. The department shall require each medical cannabis
8 preparation manufacturer to contract with the state hygienic
9 laboratory at the university of Iowa in Iowa City to test
10 the medical cannabis and the medical cannabis preparations
11 produced by the manufacturer as provided in section 124E.7.
12 The department shall require that the laboratory report testing
13 results to the manufacturer in a manner determined by the
14 department pursuant to rule.

15 5. Each entity submitting an application for licensure
16 as a medical cannabis preparation manufacturer shall pay a
17 nonrefundable application fee of fifteen thousand five hundred
18 dollars to the department.

19 Sec. 11. NEW SECTION. 124E.7 **Medical cannabis preparation**
20 **manufacturers.**

21 1. A medical cannabis preparation manufacturer shall
22 contract with the state hygienic laboratory at the university
23 of Iowa in Iowa City for purposes of testing the medical
24 cannabis and the medical cannabis preparations manufactured by
25 the medical cannabis preparation manufacturer as to content,
26 contamination, and consistency. The cost of all laboratory
27 testing shall be paid by the medical cannabis preparation
28 manufacturer.

29 2. The operating documents of a medical cannabis
30 preparation manufacturer shall include all of the following:

31 *a.* Procedures for the oversight of the medical cannabis
32 preparation manufacturer and procedures to ensure accurate
33 recordkeeping.

34 *b.* Procedures for the implementation of appropriate security
35 measures to deter and prevent the theft of medical cannabis

1 and medical cannabis preparations and unauthorized entrance
2 into areas containing medical cannabis and medical cannabis
3 preparations.

4 3. A medical cannabis preparation manufacturer shall
5 implement security requirements, including requirements for
6 protection of each location by a fully operational security
7 alarm system, facility access controls, perimeter intrusion
8 detection systems, and a personnel identification system.

9 4. A medical cannabis preparation manufacturer shall
10 not share office space with, refer patients to, or have any
11 financial relationship with a health care practitioner.

12 5. A medical cannabis preparation manufacturer shall not
13 permit any person to consume medical cannabis or a medical
14 cannabis preparation on the property of the medical cannabis
15 preparation manufacturer.

16 6. A medical cannabis preparation manufacturer is subject
17 to reasonable inspection by the department.

18 7. A medical cannabis preparation manufacturer shall
19 not employ a person who is under eighteen years of age. An
20 employee of a medical cannabis preparation manufacturer shall
21 be subject to a background investigation conducted by the
22 division of criminal investigation of the department of public
23 safety and a national criminal history background check.

24 8. A medical cannabis preparation manufacturer shall
25 not operate in any location, whether for manufacturing,
26 cultivating, harvesting, packaging, or processing, within one
27 thousand feet of a public or private school existing before
28 the date of the medical cannabis preparation manufacturer's
29 licensure by the department.

30 9. A medical cannabis preparation manufacturer shall comply
31 with reasonable restrictions set by the department relating
32 to signage, marketing, display, and advertising of medical
33 cannabis preparations.

34 10. a. A medical cannabis preparation manufacturer shall
35 provide a reliable and ongoing supply of medical cannabis

1 preparations to medical cannabis preparation dispensaries
2 pursuant to this chapter.

3 *b.* All manufacturing, cultivating, harvesting, packaging,
4 and processing of medical cannabis preparation shall take place
5 in an enclosed, locked facility at a physical address provided
6 to the department during the licensure process.

7 *c.* A medical cannabis preparation manufacturer shall
8 manufacture a reliable and ongoing supply of medical cannabis
9 preparations to treat every debilitating medical condition
10 listed in this chapter.

11 11. The department shall establish and collect an annual
12 fee from a medical cannabis preparation manufacturer equal to
13 the cost of regulating and inspecting the manufacturer in a
14 calendar year.

15 Sec. 12. NEW SECTION. **124E.8 Medical cannabis preparation**
16 **dispensary licensure.**

17 1. *a.* The department shall license by April 1, 2018, up to
18 twelve medical cannabis preparation dispensaries to dispense
19 medical cannabis preparations within this state consistent with
20 the provisions of this chapter. The department shall license
21 new medical cannabis preparation dispensaries or relicense the
22 existing medical cannabis preparation dispensaries by December
23 1 of each year.

24 *b.* Information submitted during the application process
25 shall be confidential until the medical cannabis preparation
26 dispensary is licensed by the department unless otherwise
27 protected from disclosure under state or federal law.

28 2. As a condition for licensure, a medical cannabis
29 preparation dispensary must agree to begin supplying medical
30 cannabis preparations to patients by July 15, 2018.

31 3. The department shall consider the following factors in
32 determining whether to license a medical cannabis preparation
33 dispensary:

34 *a.* The technical expertise of the medical cannabis
35 preparation dispensary regarding medical cannabis preparations.

1 *b.* The qualifications of the medical cannabis preparation
2 dispensary's employees.

3 *c.* The long-term financial stability of the medical cannabis
4 preparation dispensary.

5 *d.* The ability to provide appropriate security measures on
6 the premises of the medical cannabis preparation dispensary.

7 *e.* The medical cannabis preparation dispensary's projection
8 and ongoing assessment of fees for the purchase of medical
9 cannabis preparations on patients with debilitating medical
10 conditions.

11 4. Each entity submitting an application for licensure
12 as a medical cannabis preparation dispensary shall pay a
13 nonrefundable application fee of fifteen thousand dollars to
14 the department.

15 5. The department shall establish and collect an annual
16 fee from a medical cannabis preparation dispensary equal to
17 the cost of regulating and inspecting the medical cannabis
18 preparation manufacturer during a calendar year.

19 Sec. 13. NEW SECTION. **124E.9 Medical cannabis preparation**
20 **dispensaries.**

21 1. *a.* Medical cannabis preparation dispensaries shall be
22 located based on geographical need throughout the state to
23 improve patient access.

24 *b.* A medical cannabis preparations dispensary may dispense
25 medical cannabis preparations pursuant to the provisions
26 of this chapter but shall not dispense medical cannabis
27 preparations in any form or quantity other than the form or
28 quantity allowed by the department pursuant to rule.

29 2. The operating documents of a medical cannabis
30 preparation dispensary shall include all of the following:

31 *a.* Procedures for the oversight of the medical cannabis
32 preparation dispensary and procedures to ensure accurate
33 recordkeeping.

34 *b.* Procedures for the implementation of appropriate security
35 measures to deter and prevent the theft of medical cannabis

1 preparations and unauthorized entrance into areas containing
2 medical cannabis preparations.

3 3. A medical cannabis preparation dispensary shall
4 implement security requirements, including requirements for
5 protection by a fully operational security alarm system,
6 facility access controls, perimeter intrusion detection
7 systems, and a personnel identification system.

8 4. A medical cannabis preparation dispensary shall not
9 share office space with, refer patients to, or have any
10 financial relationship with a health care practitioner.

11 5. A medical cannabis preparation dispensary shall not
12 permit any person to consume medical cannabis preparations on
13 the property of the medical cannabis preparation dispensary.

14 6. A medical cannabis preparation dispensary is subject to
15 reasonable inspection by the department.

16 7. A medical cannabis preparation dispensary shall not
17 employ a person who is under eighteen years of age. An
18 employee of a medical cannabis preparation dispensary shall be
19 subject to a background investigation conducted by the division
20 of criminal investigation of the department of public safety
21 and a national criminal history background check.

22 8. A medical cannabis preparation dispensary shall not
23 operate in any location within one thousand feet of a public or
24 private school existing before the date of the medical cannabis
25 preparation dispensary's licensure by the department.

26 9. A medical cannabis preparation dispensary shall comply
27 with reasonable restrictions set by the department relating
28 to signage, marketing, display, and advertising of medical
29 cannabis preparation.

30 10. Prior to dispensing of a medical cannabis preparation,
31 a medical cannabis preparation dispensary shall do all of the
32 following:

33 a. Verify that the medical cannabis preparation dispensary
34 has received a valid medical cannabis preparation registration
35 card from a patient or a patient's primary caregiver, if

1 applicable.

2 *b.* Assign a tracking number to the medical cannabis
3 preparation dispensed from the medical cannabis preparation
4 dispensary.

5 *c.* (1) Properly package the medical cannabis preparation in
6 compliance with federal law regarding child resistant packaging
7 and exemptions for packaging for elderly patients, and label
8 the medical cannabis preparation with a list of all active
9 ingredients and individually identifying information, including
10 all of the following:

11 (a) The name and date of birth of the patient and the
12 patient's primary caregiver, if appropriate.

13 (b) The medical cannabis preparation registration card
14 numbers of the patient and the patient's primary caregiver, if
15 applicable.

16 (c) The chemical composition of the medical cannabis
17 preparation.

18 (2) Proper packaging of the medical cannabis preparation
19 shall include but not be limited to all of the following:

20 (a) Warning labels regarding the use of the medical
21 cannabis preparation by a woman during pregnancy and while
22 breastfeeding.

23 (b) Clearly labeled packaging indicating that an edible
24 medical cannabis preparation product contains a medical
25 cannabis preparation, which packaging shall not imitate candy
26 products or in any way make the product marketable to children.

27 Sec. 14. NEW SECTION. 124E.10 Fees.

28 Medical cannabis preparation registration card fees and
29 medical cannabis preparation manufacturer and medical cannabis
30 preparation dispensary application and annual fees collected
31 by the department pursuant to this chapter shall be retained
32 by the department, shall be considered repayment receipts as
33 defined in section 8.2, and shall be used for the purpose
34 of regulating medical cannabis preparation manufacturers
35 and medical cannabis preparation dispensaries and for other

1 expenses necessary for the administration of this chapter.
2 Notwithstanding section 8.33, moneys retained by the department
3 that remain unencumbered or unobligated at the end of the
4 fiscal year shall not revert to the general fund of the state.

5 Sec. 15. NEW SECTION. 124E.11 **Department duties — rules.**

6 1. *a.* The department shall maintain a confidential file
7 of the names of each patient to or for whom the department
8 issues a medical cannabis preparation registration card and the
9 name of each primary caregiver to whom the department issues a
10 medical cannabis preparation registration card under section
11 124E.4.

12 *b.* Individual names contained in the file shall be
13 confidential and shall not be subject to disclosure, except as
14 provided in subparagraph (1).

15 (1) Information in the confidential file maintained
16 pursuant to paragraph “a” may be released on an individual basis
17 to the following persons under the following circumstances:

18 (a) To authorized employees or agents of the department and
19 the department of transportation as necessary to perform the
20 duties of the department and the department of transportation
21 pursuant to this chapter.

22 (b) To authorized employees of state or local law
23 enforcement agencies, but only for the purpose of verifying
24 that a person is lawfully in possession of a medical cannabis
25 preparation registration card issued pursuant to this chapter.

26 (c) To authorized employees of a medical cannabis
27 preparation dispensary, but only for the purpose of verifying
28 that a person is lawfully in possession of a medical cannabis
29 preparation registration card issued pursuant to this chapter.

30 (2) Release of information pursuant to subparagraph
31 (1) shall be consistent with the federal Health Insurance
32 Portability and Accountability Act of 1996, Pub. L. No.
33 104-191.

34 2. The department shall adopt rules pursuant to chapter
35 17A to administer this chapter which shall include but not be

1 limited to rules to do all of the following:

2 *a.* Govern the manner in which the department shall consider
3 applications for new and renewal medical cannabis preparation
4 registration cards.

5 *b.* Identify criteria and set forth procedures for
6 including additional chronic or debilitating diseases or
7 medical conditions or their medical treatments on the list of
8 debilitating medical conditions that qualify for the use of
9 a medical cannabis preparation. Procedures shall include a
10 petition process and shall allow for public comment and public
11 hearings before the medical advisory board.

12 *c.* Set forth additional chronic or debilitating diseases
13 or medical conditions or associated medical treatments for
14 inclusion on the list of debilitating medical conditions that
15 qualify for the use of a medical cannabis preparation as
16 recommended by the medical advisory board.

17 *d.* Establish the form and quantity of medical cannabis
18 preparations allowed to be dispensed to a patient or primary
19 caregiver pursuant to this chapter. The form and quantity of
20 medical cannabis preparations shall be appropriate to serve the
21 medical needs of patients with debilitating medical conditions.

22 *e.* Establish requirements for the licensure of medical
23 cannabis preparation manufacturers and medical cannabis
24 preparation dispensaries and set forth procedures for medical
25 cannabis preparation manufacturers and medical cannabis
26 preparation dispensaries to obtain licenses.

27 *f.* Develop a dispensing system for medical cannabis
28 preparations within this state that provides for all of the
29 following:

30 (1) Medical cannabis preparation dispensaries within this
31 state housed on secured grounds and operated by licensed
32 medical cannabis preparation dispensaries.

33 (2) The dispensing of medical cannabis preparations to
34 patients and their primary caregivers to occur at locations
35 designated by the department.

1 *g.* Specify and implement procedures that address public
2 safety including security procedures and product quality
3 including measures to ensure contaminant-free cultivation of
4 medical cannabis, and measures to ensure safety, and proper
5 labeling of medical cannabis preparations.

6 *h.* Establish and implement a medical cannabis and medical
7 cannabis preparation inventory and delivery tracking system
8 to track medical cannabis and medical cannabis preparations
9 from production by a medical cannabis preparation manufacturer
10 through dispensing at a medical cannabis preparation
11 dispensary.

12 Sec. 16. NEW SECTION. **124E.12 Reciprocity.**

13 A valid medical cannabis preparation registration card, or
14 its equivalent, issued under the laws of another state that
15 allows an out-of-state patient to possess or use a medical
16 cannabis preparation in the jurisdiction of issuance shall
17 have the same force and effect as a valid medical cannabis
18 preparation registration card issued pursuant to this chapter,
19 except that an out-of-state patient in this state shall not
20 obtain medical cannabis preparations from a medical cannabis
21 preparation dispensary in this state and an out-of-state
22 patient shall not smoke medical cannabis preparations in this
23 state.

24 Sec. 17. NEW SECTION. **124E.13 Use of medical cannabis**
25 **preparation — smoking prohibited.**

26 A patient shall not consume a medical cannabis preparation
27 possessed or used as authorized by this chapter by smoking the
28 medical cannabis preparation.

29 Sec. 18. NEW SECTION. **124E.14 Use of medical cannabis**
30 **preparation — affirmative defenses.**

31 1. A health care practitioner, including any authorized
32 agent or employee thereof, shall not be subject to
33 prosecution for the unlawful certification, possession, or
34 administration of marijuana under the laws of this state for
35 activities arising directly out of or directly related to the

1 certification or use of a medical cannabis preparation in the
2 treatment of a patient diagnosed with a debilitating medical
3 condition as authorized by this chapter.

4 2. A medical cannabis preparation manufacturer, including
5 any authorized agent or employee thereof, shall not be subject
6 to prosecution for manufacturing, possessing, cultivating,
7 harvesting, packaging, processing, transporting, or supplying
8 medical cannabis or medical cannabis preparations pursuant to
9 this chapter.

10 3. A medical cannabis preparation dispensary, including any
11 authorized agent or employee thereof, shall not be subject to
12 prosecution for transporting, supplying, or dispensing medical
13 cannabis preparations pursuant to this chapter.

14 a. In a prosecution for the unlawful possession of marijuana
15 under the laws of this state, including but not limited to
16 chapters 124 and 453B, it is an affirmative and complete
17 defense to the prosecution that the patient has been diagnosed
18 with a debilitating medical condition, used or possessed a
19 medical cannabis preparation pursuant to a certification by a
20 health care practitioner as authorized under this chapter, and,
21 for a patient eighteen years of age or older, is in possession
22 of a valid medical cannabis preparation registration card.

23 b. In a prosecution for the unlawful possession of marijuana
24 under the laws of this state, including but not limited to
25 chapters 124 and 453B, it is an affirmative and complete
26 defense to the prosecution that the person possessed a medical
27 cannabis preparation because the person is a primary caregiver
28 of a patient who has been diagnosed with a debilitating
29 medical condition and is in possession of a valid medical
30 cannabis preparation registration card, and where the primary
31 caregiver's possession of the medical cannabis preparation is
32 on behalf of the patient and for the patient's use only as
33 authorized under this chapter.

34 c. If a patient or primary caregiver is charged with the
35 commission of a crime and is not in possession of the person's

1 medical cannabis preparation registration card, any charge or
2 charges filed against the person shall be dismissed by the
3 court if the person produces to the court prior to or at the
4 person's trial a medical cannabis preparation registration card
5 issued to that person and valid at the time the person was
6 charged.

7 4. An agency of this state or a political subdivision
8 thereof, including any law enforcement agency, shall not remove
9 or initiate proceedings to remove a patient under the age
10 of eighteen from the home of a parent based solely upon the
11 parent's or patient's possession or use of a medical cannabis
12 preparation as authorized under this chapter.

13 Sec. 19. NEW SECTION. 124E.15 Penalties.

14 1. A person who knowingly or intentionally possesses or uses
15 medical cannabis or a medical cannabis preparation in violation
16 of the requirements of this chapter is subject to the penalties
17 provided under chapters 124 and 453B.

18 2. A medical cannabis preparation manufacturer or a medical
19 cannabis preparation dispensary shall be assessed a civil
20 penalty of up to one thousand dollars per violation for any
21 violation of this chapter in addition to any other applicable
22 penalties.

23 Sec. 20. REPEAL. Chapter 124D, Code 2017, is repealed.

24 Sec. 21. TRANSITION PROVISIONS. A cannabidiol registration
25 card issued under chapter 124D prior to the effective date of
26 this Act, remains effective and continues in effect as issued
27 for the twelve-month period following its issuance. This Act
28 does not preclude the cannabidiol registration card holder
29 from seeking to renew the card under this Act prior to the
30 expiration of the twelve-month period.

31 Sec. 22. EFFECTIVE UPON ENACTMENT. This Act, being deemed
32 of immediate importance, takes effect upon enactment.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill creates the compassionate use of medical
2 cannabis preparations Act, reclassifies marijuana, including
3 tetrahydrocannabinols, from a schedule I controlled substance
4 to a schedule II controlled substance, and provides for civil
5 and criminal penalties and fees.

6 OVERVIEW. The bill allows a patient with a debilitating
7 medical condition (as defined in the bill) who receives
8 a written certification from the patient's health care
9 practitioner that the patient has a debilitating medical
10 condition and who submits the written certification along with
11 an application to the department of public health (department)
12 for a medical cannabis preparation registration card to allow
13 for the lawful use of a medical cannabis preparation to treat
14 the patient's debilitating medical condition. A patient who is
15 issued a medical cannabis preparation registration card will be
16 able to receive a medical cannabis preparation directly from a
17 medical cannabis preparation dispensary operated and licensed
18 in this state.

19 RECLASSIFICATION. The bill reclassifies marijuana,
20 including tetrahydrocannabinols as a schedule II controlled
21 substance instead of a schedule I controlled substance and
22 strikes references to the authority of the board of pharmacy to
23 adopt rules for the use of marijuana or tetrahydrocannabinols
24 for medicinal purposes.

25 A schedule I controlled substance is a highly addictive
26 substance that has no accepted medical use in the United States
27 and a schedule II controlled substance is a highly addictive
28 substance that has an accepted medical use in the United
29 States. The reclassification of marijuana from a schedule I
30 controlled substance to a schedule II controlled substance
31 would allow a physician to issue a prescription for marijuana
32 under state law. However, federal regulations may prohibit
33 such prescriptions.

34 The penalties remain unchanged for violations involving
35 marijuana under the bill. The penalties under Code section

1 124.401 range from a class "B" felony punishable by up to 50
2 years of confinement to a serious misdemeanor punishable by
3 up to six months of confinement depending on the amount of
4 marijuana involved in the offense.

5 The bill amends Code section 124.401, relating to prohibited
6 acts involving controlled substances, to provide that it is
7 lawful for a person to knowingly or intentionally recommend,
8 possess, use, dispense, deliver, transport, or administer
9 medical cannabis if the recommendation, possession, use,
10 dispensing, delivery, transporting, or administering is in
11 accordance with the provisions of the bill.

12 HEALTH CARE PRACTITIONER CERTIFICATION. The bill provides
13 that prior to a patient's submission of an application for a
14 medical cannabis preparation registration card, if a health
15 care practitioner determines that the patient whom the health
16 care practitioner has examined and treated suffers from a
17 debilitating medical condition, the health care practitioner
18 may provide the patient with a written certification of that
19 diagnosis. The health care practitioner must also provide
20 explanatory information to the patient about the therapeutic
21 use of a medical cannabis preparation, and if the patient
22 continues to suffer from a debilitating medical condition,
23 the health care practitioner may issue the patient a new
24 certification of that diagnosis on an annual basis.

25 MEDICAL CANNABIS PREPARATION REGISTRATION CARD — PATIENT
26 AND PRIMARY CAREGIVER. The department may approve the issuance
27 of a medical cannabis preparation registration card to a
28 patient who is at least 18 years of age and is a permanent
29 resident of this state, who submits a written certification
30 by the patient's health care practitioner to the department,
31 and who submits an application to the department with certain
32 information along with a medical cannabis preparation
33 registration card fee. The department may also approve the
34 issuance of a medical cannabis preparation registration card
35 to a primary caregiver who is at least 18 years of age, who

1 submits a written certification by the patient's health care
2 practitioner to the department on behalf of the patient, and
3 who submits an application to the department with certain
4 information along with a medical cannabis preparation
5 registration card fee. A medical cannabis preparation
6 registration card expires one year after the date of issuance
7 and may be renewed.

8 **MEDICAL ADVISORY BOARD.** The director of public health
9 is directed to establish a medical advisory board, no later
10 than August 15, 2017, to consist of nine practitioners
11 representing the fields of neurology, pain management,
12 gastroenterology, oncology, psychiatry, pediatrics, infectious
13 disease, family medicine, and pharmacy, and three patients or
14 primary caregivers with valid medical cannabis preparation
15 registration cards. The duties of the board include but are
16 not limited to reviewing and recommending to the department
17 for approval additional chronic or debilitating diseases or
18 medical conditions or their treatments as debilitating medical
19 conditions that qualify for the use of a medical cannabis
20 preparation under the bill.

21 **MEDICAL CANNABIS PREPARATION MANUFACTURERS AND MEDICAL**
22 **CANNABIS PREPARATION DISPENSARIES — LICENSURE.** The bill
23 requires the department to license up to four medical cannabis
24 preparation manufacturers for the manufacture of medical
25 cannabis preparations within this state by December 1,
26 2017, and to license up to 12 medical cannabis preparation
27 dispensaries by April 1, 2018. Information submitted during
28 the application process is confidential until the medical
29 cannabis preparation manufacturer or the medical cannabis
30 preparation dispensary is licensed by the department unless
31 otherwise protected from disclosure under state or federal law.
32 As a condition for licensure, a medical cannabis preparation
33 manufacturer must agree to begin supplying medical cannabis
34 preparations to medical cannabis preparation dispensaries by
35 July 1, 2018, and a medical cannabis preparation dispensary

1 must agree to begin supplying medical cannabis preparations
2 to patients by July 15, 2018. The department is directed to
3 consider several factors in determining whether to license
4 a medical cannabis preparation manufacturer and a medical
5 cannabis preparation dispensary including technical expertise,
6 employee qualifications, financial stability, security
7 measures, and production needs and capacity. Each medical
8 cannabis preparation manufacturer is required to contract with
9 the state hygienic laboratory at the university of Iowa to test
10 the medical cannabis and the medical cannabis preparations
11 produced by the manufacturer and to report testing results to
12 the medical cannabis preparation manufacturer. Each entity
13 submitting an application for licensure as a medical cannabis
14 preparation manufacturer or a medical cannabis preparation
15 dispensary shall pay a nonrefundable application fee of \$15,000
16 to the department.

17 MEDICAL CANNABIS PREPARATION MANUFACTURERS AND MEDICAL
18 CANNABIS PREPARATION DISPENSARIES — ADDITIONAL PROVISIONS.
19 The operating documents of a medical cannabis preparation
20 manufacturer and a medical cannabis preparation dispensary
21 shall include procedures for oversight and recordkeeping
22 activities of the medical cannabis preparation manufacturer
23 and the medical cannabis preparation dispensary and certain
24 security measures undertaken by the medical cannabis
25 preparation manufacturer and the medical cannabis preparation
26 dispensary. A medical cannabis preparation manufacturer and
27 a medical cannabis preparation dispensary are prohibited from
28 sharing office space with, referring patients to, or having
29 a financial relationship with a health care practitioner,
30 permitting any person to consume medical cannabis or medical
31 cannabis preparations on the property of the medical cannabis
32 preparation manufacturer or the medical cannabis preparation
33 dispensary, employing a person who is under 18 years of age,
34 and from operating in any location within 1,000 feet of a
35 public or private school existing before the date of the

1 licensure of the medical cannabis preparation manufacturer or
2 the medical cannabis preparation dispensary. In addition,
3 a medical cannabis preparation manufacturer and a medical
4 cannabis preparation dispensary are subject to reasonable
5 inspection and certain reasonable restrictions.

6 A medical cannabis preparation manufacturer is required
7 to provide a reliable and ongoing supply of medical cannabis
8 preparations to medical cannabis preparation dispensaries.
9 All manufacturing, cultivating, harvesting, packaging, and
10 processing of a medical cannabis preparation is required to
11 take place in an enclosed, locked facility.

12 Prior to dispensing any medical cannabis preparation, a
13 medical cannabis preparation dispensary is required to verify
14 that the medical cannabis preparation dispensary has received
15 a valid medical cannabis preparation registration card from a
16 patient or a patient's primary caregiver, if applicable, assign
17 a tracking number to any medical cannabis preparation dispensed
18 from the medical cannabis preparation dispensary, and properly
19 package and label a medical cannabis preparation in compliance
20 with the provisions of the bill and certain federal laws.

21 DEPARTMENT DUTIES — CONFIDENTIALITY. The department is
22 required to maintain a confidential file of the names of
23 each patient and primary caregiver issued a medical cannabis
24 preparation registration card. Individual names contained in
25 the file shall be confidential and shall not be subject to
26 disclosure, except that information in the confidential file
27 may be released on an individual basis to authorized employees
28 or agents of the department, the department of transportation,
29 and a medical cannabis preparation dispensary as necessary to
30 perform their duties and to authorized employees of state or
31 local law enforcement agencies for the purpose of verifying
32 that a person is lawfully in possession of a medical cannabis
33 preparation registration card. Release of information must
34 also be consistent with federal Health Insurance Portability
35 and Accountability Act regulations.

1 ADDITIONAL DEPARTMENT DUTIES — RULES. The bill requires
2 the department to adopt rules relating to the manner in which
3 the department shall consider applications for new and renewal
4 medical cannabis preparation registration cards, identify
5 criteria and set forth procedures for including additional
6 chronic or debilitating diseases or medical conditions or
7 their medical treatments on the list of debilitating medical
8 conditions, establish the form and quantity of medical cannabis
9 preparations allowed to be dispensed to a patient or primary
10 caregiver in the form and quantity appropriate to serve the
11 medical needs of the patient with the debilitating medical
12 condition, establish requirements for the licensure of medical
13 cannabis preparation manufacturers and medical cannabis
14 preparation dispensaries, develop a dispensing system for
15 medical cannabis preparations within this state that follows
16 certain requirements, establish and implement a medical
17 cannabis and a medical cannabis preparation inventory and
18 delivery tracking system, and specify and implement procedures
19 that address public safety including security procedures and
20 product quality, safety, and labeling.

21 RECIPROCITY. The bill provides that a valid medical
22 cannabis preparation registration card, or its equivalent,
23 issued under the laws of another state that allows an
24 out-of-state patient to possess or use a medical cannabis
25 preparation in the jurisdiction of issuance shall have the
26 same force and effect as a valid medical cannabis preparation
27 registration card issued under the bill, except that an
28 out-of-state patient in this state shall not obtain medical
29 cannabis preparations from a medical cannabis preparation
30 dispensary and an out-of-state patient shall not smoke medical
31 cannabis preparations in this state.

32 USE OF MEDICAL CANNABIS PREPARATION — SMOKING PROHIBITED.
33 The bill provides that a patient shall not consume a medical
34 cannabis preparation by smoking the medical cannabis
35 preparation.

1 USE OF MEDICAL CANNABIS PREPARATION — AFFIRMATIVE DEFENSES.

2 The bill provides prosecution immunity for a health care
3 practitioner, a medical cannabis preparation manufacturer,
4 and a medical cannabis preparation dispensary, including any
5 authorized agents or employees of the health care practitioner,
6 medical cannabis preparation manufacturer, and medical cannabis
7 preparation dispensary, for activities undertaken by the health
8 care practitioner, medical cannabis preparation manufacturer,
9 and medical cannabis preparation dispensary pursuant to the
10 provisions of the bill.

11 The bill provides that in a prosecution for the unlawful
12 possession of marijuana under the laws of this state,
13 including but not limited to Code chapters 124 (controlled
14 substances) and 453B (excise tax on unlawful dealing in certain
15 substances), it is an affirmative and complete defense to
16 the prosecution that the patient has been diagnosed with a
17 debilitating medical condition, used or possessed a medical
18 cannabis preparation pursuant to a certification by a health
19 care practitioner, and, for a patient age 18 or older, is in
20 possession of a valid medical cannabis preparation registration
21 card. The bill provides a similar affirmative defense for a
22 primary caretaker of a patient who has been diagnosed with a
23 debilitating medical condition who is in possession of a valid
24 medical cannabis preparation registration card.

25 The bill provides that an agency of this state or a political
26 subdivision thereof, including any law enforcement agency,
27 shall not remove or initiate proceedings to remove a patient
28 under the age of 18 from the home of a parent based solely
29 upon the parent's or patient's possession or use of a medical
30 cannabis preparation as authorized under the bill.

31 FEES. Medical cannabis preparation registration card fees
32 and medical cannabis preparation manufacturer and medical
33 cannabis preparation dispensary application and annual fees
34 shall be retained by the department and used for the purposes
35 of regulating medical cannabis preparation manufacturers

1 and medical cannabis preparation dispensaries and for other
2 administrative purposes.

3 PENALTIES. The bill provides that a person who knowingly or
4 intentionally possesses or uses medical cannabis or a medical
5 cannabis preparation in violation of the requirements of the
6 bill is subject to the penalties provided under Code chapters
7 124 and 453B. In addition, a medical cannabis preparation
8 manufacturer or a medical cannabis preparation dispensary shall
9 be assessed a civil penalty of up to \$1,000 per violation for
10 any violation of the bill in addition to any other applicable
11 penalties.

12 REPEAL. The bill repeals Code chapter 124D, the medical
13 cannabidiol Act.

14 EFFECTIVE DATE. The bill takes effect upon enactment.

15 TRANSITION PROVISIONS. The bill provides that a cannabidiol
16 registration card issued under Code chapter 124D (medical
17 cannabidiol Act) prior to the effective date of the bill, shall
18 remain effective and continues in effect as issued for the
19 12-month period following its issuance.